IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3615 OF 2004

Anilkumar Dinanath Pandey ...Applicant

Versus

The State ...Respondent

.....

Ms.Anjali Patil Contractor for Applicant.

Mr.A.S.Gadkari, A.P.P. for Respondent.

.....

CORAM: A.M.KHANWILKAR, J.

SEPTEMBER 6, 2004.

P.C.

1. Heard Counsel appearing for the parties.

2. The applicant is being tried for offences punishable under Sections 465, 467, 468, 471, 474 and 420 of the Indian Penal Code in C.R.No.41/04 of Sahara Airport Police Station.

3. The applicant had applied for bail during the pendency of investigation, which was rejected

for the reasons recorded in the order. After investigation was complete and charge-sheet was filed, applicant moved fresh application for bail before the Court of Sessions at Greater Mumbai. That application has been once again rejected on the reasoning that filing of the charge-sheet is not a changed circumstance. The Sessions Court has not decided the bail application on its own merits.

4. Mr.Gadkari, learned A.P.P. fairly submits that the fact of filing of charge-sheet is a changed circumstance, has been finally answered in a recent decision of this Court. He, therefore, fairly submits that the impugned order be set-aside and the application be restored to the file of the Sessions Court for reconsideration on its own merits, in accordance with law.

5. Having considered the rival submissions, to my mind, the appropriate course is, to accept the submission made on behalf of the Respondent State of setting aside the impugned order and relegating the applicant before the Sessions Court by restoring the Bail Application No.1200/2004 to

the file of the Sessions Court to its original number for being decided on its own merits in accordance with law, as expeditiously as possible, preferably within two weeks from the date of receipt of writ of this Court or production of authenticated copy of this order. Ordered accordingly.

6. All questions with regard to merits are left open. Indeed, Counsel for the applicant submits that in view of the settled legal position, for offence such as the present one, after filing of charge-sheet, the accused has to be released on bail. However, that contention can be considered by the Sessions Court, as the bail application is now relegated before that Court.

7. Application allowed on the above terms.

8. All concerned to act on the ordinary copy of this order, duly authenticated by the Office.

A.M.KHANWILKAR, J.